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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/619,132	07/14/2003	Richard C. Darr	02-500-1	6059

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Robert H. Bachman
59 Richard Sweet Drive
Woodbridge, CT 06525

EXAMINER

HANNAHER, CONSTANTINE

ART UNIT	PAPER NUMBER
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2878

DATE MAILED: 07/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/619,132

Applicant(s)

DARR ET AL.

Examiner

Constantine Hannaher

Art Unit

2878

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Information Disclosure Statement

1. The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609 A(1) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

Oath/Declaration

2. When applicant states that the post office address is the "same" as residence applicant's representative should keep in mind that a "residence" is a city and state or foreign country. The superfluous information given for residence is accepted as constituting a mailing address. The Office has been able to discern the city and state or foreign country of residence from the information supplied. See the requirements of 37 CFR 1.63(c)(1) as amended effective November 7, 2000.

Specification

3. Section 608.01 of the MPEP states in part:

In order to minimize the necessity in the future for converting dimensions... to the metric system of measurements when using printed patents... all patent applicants should use the metric (S.I.) units followed by the equivalent English units when describing their inventions....

The Assistant Secretary and Commissioner of Patents and Trademark strongly reiterated and emphasized strong encouragement for patent applicants to use the metric system in patent applications in a message appearing at 1135 O.G. 55 dated February 18, 1992. At some future time, the USPTO will consider making it a requirement.

Note the use of the micron and the torr. The Examiner is unable to require the use of SI units.

Claim Objections

4. Claim 19 is objected to because of the following informalities: this claim purports to depend upon itself; it will be treated as if it depended upon claim 18 instead. Appropriate correction is required.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

7. Claims 1, 2, 11, and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Imaizumi *et al.* (US005991018A) in view of Hoshino *et al.* (US005331167A).

With respect to independent claim 1, Imaizumi *et al.* discloses a process for testing the thickness of a coating on a container (Fig. 5) comprising the steps of providing a container 22 having a coating thereon, shining light **L** through the container and the coating, and determining the thickness of the coating by at least one sensor 25 which determines how much light passes through the container, but the process does not shine specifically ultraviolet light through the container.

Hoshino *et al.* discloses that the quality of a multilayer container 103 (Fig. 4) may be evaluated by ultraviolet transmission from source 122 to sensor 124. In view of the improved ability to assess a container regardless of its color in the visible range (column 2, lines 27-31), it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the process of Imaizumi *et al.* to specify that light L was ultraviolet.

With respect to dependent claim 2, the container 22 in the process disclosed by Hoshino *et al.* is of the type recited.

With respect to independent claim 11, Imaizumi *et al.* discloses an apparatus for testing the thickness of a coating on a container (Fig. 5) which comprises a container 22 having a coating thereon, means 24 for shining light L through the container and the coating, and at least one sensor 25 operative to determine how much light L passes through the container 22, thereby determining the thickness of the coating, but the source 24 is not of ultraviolet light. Hoshino *et al.* discloses that the quality of a multilayer container 103 (Fig. 4) may be evaluated by ultraviolet transmission from source 122 to sensor 124. In view of the improved ability to assess a container regardless of its color in the visible range (column 2, lines 27-31), it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the apparatus of Imaizumi *et al.* to specify that source 24 of light L was ultraviolet.

With respect to dependent claim 12, the container 22 in the apparatus disclosed by Hoshino *et al.* is of the type recited.

8. Claims 3-10 and 13-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Imaizumi *et al.* (US005991018A) and Hoshino *et al.* (US005331167A) as applied to claims 2 and 12 above, and further in view of Yamaura *et al.* (JP 10-24092 A).

With respect to dependent claim 3, the sensor **25** in the process of Imaizumi *et al.* is positioned outside the container **22** but light **L** does not pass from the inside of the container. Yamaura *et al.* discloses (Fig. 1) that the provision of an ultraviolet source **4** inside a container **8** is known. In view of the more compact arrangement suggested by Yamaura *et al.*, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the process suggested by Imaizumi *et al.* and Hoshino *et al.* such that light **L** passed from the inside of container **22** to sensor **25**.

With respect to dependent claim 4, Yamaura *et al.* suggests rod **4** inserted in container **8**.

With respect to dependent claim 5, the number of sensors **25** in a process as suggested by Imaizumi *et al.*, Hoshino *et al.*, and Yamaura *et al.* is a choice within the ordinary skill in the art at the time the invention was made, especially in view of the 360° aspect of the container wall.

With respect to dependent claim 6, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have the sensor **25** in a process as suggested by Imaizumi *et al.*, Hoshino *et al.*, and Yamaura *et al.* be movable along the vertical length of container **22** in view of the desire to determine the thickness of the coating along such length (height) (Fig. 8).

With respect to dependent claim 7, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have the container **22** in a process as suggested by Imaizumi *et al.*, Hoshino *et al.*, and Yamaura *et al.* be rotatable in view of the 360° aspect of the container wall.

With respect to dependent claim 8, while the coating in the process disclosed by Imaizumi *et al.* is on the external surface of the container **22** (Fig. 9), it would have been obvious to one of ordinary skill in the art at the time the invention was made to apply the process suggested by

Imaizumi *et al.*, Hoshino *et al.*, and Yamaura *et al.* to a container with the coating on the internal surface, especially in view of the transmission measurement.

With respect to dependent claim 9, it would have been obvious to one of ordinary skill in the art at the time the invention was made to apply the process as suggested by Imaizumi *et al.*, Hoshino *et al.*, and Yamaura *et al.* to the recited coating which is routinely applied to containers of the type inspected by Imaizumi *et al.* and Hoshino *et al.*

With respect to dependent claim 10, it would have been obvious to one of ordinary skill in the art at the time the invention was made to connect the sensor **25** in the process as suggested by Imaizumi *et al.*, Hoshino *et al.*, and Yamaura *et al.* to a meter which measures the amount of light passing through the coating. See especially element **27** in Imaizumi *et al.*

With respect to dependent claim 13, the sensor **25** in the apparatus of Imaizumi *et al.* is positioned outside the container **22** but light **L** does not pass from the inside of the container. Yamaura *et al.* discloses (Fig. 1) that the provision of an ultraviolet source **4** inside a container **8** is known. In view of the more compact arrangement suggested by Yamaura *et al.*, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the apparatus suggested by Imaizumi *et al.* and Hoshino *et al.* such that light **L** passed from the inside of container **22** to sensor **25**.

With respect to dependent claim 14, Yamaura *et al.* suggests rod **4** inserted in container **8**.

With respect to dependent claim 15, the number of sensors **25** in an apparatus as suggested by Imaizumi *et al.*, Hoshino *et al.*, and Yamaura *et al.* is a choice within the ordinary skill in the art at the time the invention was made, especially in view of the 360° aspect of the container wall.

With respect to dependent claim 16, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have the sensor **25** in an apparatus as suggested by

Imaizumi *et al.*, Hoshino *et al.*, and Yamaura *et al.* be movable along the vertical length of container **22** in view of the desire to determine the thickness of the coating along such length (height) (Fig. 8).

With respect to dependent claim 17, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have the container **22** in an apparatus as suggested by Imaizumi *et al.*, Hoshino *et al.*, and Yamaura *et al.* be rotatable in view of the 360° aspect of the container wall.

With respect to dependent claim 18, while the coating in the process disclosed by Imaizumi *et al.* is on the external surface of the container **22** (Fig. 9), it would have been obvious to one of ordinary skill in the art at the time the invention was made to apply the apparatus suggested by Imaizumi *et al.*, Hoshino *et al.*, and Yamaura *et al.* to a container with the coating on the internal surface, especially in view of the transmission measurement.

With respect to dependent claim 19, it would have been obvious to one of ordinary skill in the art at the time the invention was made to apply the apparatus as suggested by Imaizumi *et al.*, Hoshino *et al.*, and Yamaura *et al.* to the recited coating which is routinely applied to containers of the type inspected by Imaizumi *et al.* and Hoshino *et al.*

With respect to dependent claim 20, it would have been obvious to one of ordinary skill in the art at the time the invention was made to connect the sensor **25** in the apparatus as suggested by Imaizumi *et al.*, Hoshino *et al.*, and Yamaura *et al.* to a meter which measures the amount of light passing through the coating. See especially element **27** in Imaizumi *et al.*

Conclusion

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Constantine Hannaher whose telephone number is (571) 272-2437. The examiner can normally be reached on Monday-Friday with flexible hours.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David P. Porta can be reached on (571) 272-2444. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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Constantine Hannaher
Primary Examiner